



#5/55  
12-18-02

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Ting Tina Ye et al.

Serial No.: 09/945,225

Examiner: M. DeSanto

Filed: August 31, 2001

Group Art Unit: 3763

For: MICROCATHETER WITH IMPROVED DISTAL TIP AND TRANSITIONS

Docket No.: 1001.1471102

Box Non-Fee Response  
Assistant Commissioner for Patents  
Washington, D.C. 20231

**RESPONSE**

**CERTIFICATE UNDER 37 C.F.R. 1.10:** The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, "Express Mail Post Office to Addressee" having an Express Mail mailing label number of: EL811913969US, in an envelope addressed to: Box Non-Fee Response, Assistant Commissioner for Patents, Washington, D.C., 20231 on this 12th day of December, 2002.

By

*Kathleen L. Boekley*  
Kathleen L. Boekley

RECEIVED  
DEC 16 2002  
TC 3700 MAIL ROOM

Dear Sir:

In response to the Office Action dated September 12, 2002, please consider the following remarks.

**REMARKS**

Applicants have carefully reviewed the Office Action dated September 12, 2002. Claims 1-21 remain pending.

Claim 1 is rejected under 35 U.S.C. §102(e) as being anticipated by Samson et al. in U.S. Patent No. 6,090,099. Applicants respectfully traverse this rejection. It can be seen that claims 1 and 14 include the limitation that the distal tip includes a shapeable length and that the distal

terminus is set back from the distal end a distance equal to or greater than the shapeable length. This feature allows the shaft to be generally softer near the distal end and/or may be more shapeable (please see, for example, page 6, lines 12-19). The Examiner has asserted on page 2 of the Office Action that Samson et al. show a shapeable length in Figure 2. Applicants respectfully disagree. Turning now to Figure 2 of Samson et al., stiffening member 204 appears to truncate near the distal end of the shaft. The exact position of the distal end of stiffening member 204, however, is not clearly shown. It appears that if the stiffening member was set back a proximal distance, the distance would not be sufficient to allow any shaping of the distal tip. Additionally, the naming of members 202/204 by Samson et al. as “stiffening members” strongly suggests that the distal tip lacks any form of shapeable tip or that any portion of the catheter is set back a distance greater than or equal to a shapeable length. At the very most, the distance that stiffening member 204 could be set back would be about equal to the thickness of stiffening member 202 disposed over stiffening member 204. The thickness of stiffening member 202 is stated to be about 0.0005 to 0.0015. Samson et al. at column 6, lines 1-2.

Moreover, Samson et al. state that stiffening member 202 and stiffening member 204 have a similar axial length. Sampson et al. at column 6, lines 1-12. Thus, Samson et al. do not disclose the structural feature of having a second layer that is set back from the distal end of the shaft a distance greater than or equal to the shapeable length, or teach any benefit of including this structural feature. Instead, Samson et al. teach away from Applicants’ claimed structural features. Therefore, Applicants respectfully submit that Samson et al. fail to disclose all of the structural limitations of Applicants’ claimed invention and that the above amendments overcome the rejection under 35 U.S.C. §102(e).

Claims 1, 2, 3, 4, 5, 7, 8, 9, 10, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sampson et al. As stated above, claim 1 is distinguishable over Sampson et al. due to the limitation of the distal terminus being set back a distance greater than or equal to the shapeable length of the catheter. Accordingly, Applicants respectfully submit that the above limitation defines a structural difference between Sampson et al. and Applicants' claimed invention and that claim 1 is in condition for allowance. Because claims 2, 3, 4, 5, 7, 8, 9, 10, 12 and 13 depend from an allowable base claim, they are allowable based on this amendment and because they add significant elements to distinguish them from the prior art.

Claims 1-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sampson et al. in view of Nita et al. in U.S. Patent No. 5,951,539. As stated above, claims 1 and 14 are distinguishable over Sampson et al. due to the limitation of the distal terminus being set back a distance greater than or equal to the shapeable length of the catheter. Nita et al. similarly fail to disclose this structural limitation. Accordingly, Applicants respectfully submit that the above limitation defines a structural difference that distinguishes Applicants' claimed invention from Sampson et al. and Nita et al., and that claims 1 and 14 are in condition for allowance. Because claims 2-13 depend from claim 1 and because claims 15-21 depend from claim 14, they are allowable based on this amendment and because they add significant elements to distinguish them from the prior art.


Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims, namely claims 1-21, are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Ting Tina Ye et al.

By their Attorney,

Date: 12/12/02

  
David M. Crompton, Reg. No. 36,772  
CROMPTON, SEAGER & TUFTE, LLC  
331 Second Avenue South, Suite 895  
Minneapolis, Minnesota 55401-2246  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349



12-13-02

3163

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Tina Ting Ye et al.

Serial No.: 09/945,225

Examiner: M. DeSanto

Filed: August 31, 2002

Group Art Unit: 3763

For: MICROCATHETER WITH IMPROVED DISTAL TIP AND TRANSITIONS

Docket No.: 1001.1471102

**TRANSMITTAL SHEET**

Box Non-Fee Response  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**CERTIFICATE UNDER 37 C.F.R. 1.10:** The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, "Express Mail Post Office to Addressee" having an Express Mail mailing label number of: EL811913969US, in an envelope addressed to: Box Non-Fee Response, Assistant Commissioner for Patents, Washington, D.C., 20231 on this 12th day of December, 2002.

By

*Kathleen L. Boekley*  
Kathleen L. Boekley

We are transmitting herewith the attached:

[ XX ] Response

[ ] No additional fee required

[ ] The fee has been calculated as shown:

CLAIMS AS AMENDED							
	(3)	(4)	(5)	SMALL ENTITY		OTHER	
	REMAINING CLAIMS	HIGHEST PAID	EXTRA	RATE	ADD'L FEE	RATE	ADD'L FEE
TOTAL CLAIMS	-	=		X9=	\$	X18=	\$
INDEPEN- DENT CLAIMS	-	=		X40=	\$	X80=	\$
( ) FIRST MULTIPLE DEPENDENT CLAIM				+135=	\$	+270=	\$
TOTAL				\$		\$	

RECEIVED  
DEC 16 2002  
TC 3700 MAIL ROOM

[ ] A check in the amount of \$ \_\_\_\_\_ is enclosed. Itemization:  
Fee Code \_\_\_\_\_ \$  
Fee Code \_\_\_\_\_ \$

[ ] Small entity status of this application under 37 C.F.R. 1.9 and 1.27 has been established by verified statement previously submitted.

[ ] Other: \_\_\_\_\_.

[XXXX] Please charge any deficiencies or credit any overpayment in the enclosed fees to Deposit Account No. 50-0413.

By: \_\_\_\_\_

David M. Crompton

Reg. No. \_\_\_\_\_ 36,772

David M. Crompton  
CROMPTON, SEAGER & TUFTE, LLC  
331 Second Avenue South, Suite 895  
Minneapolis, Minnesota 55401-2246  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349